

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA
ON THE 3rd OF OCTOBER, 2023
WRIT PETITION No. 24592 of 2023**

BETWEEN:-

**DR. SUDHANSHU TRIPATHI, S/O LATE SHRI
RADHESHYAM TRIPATHI, OCCUPATION
ASSISTANT PROFESSOR, AGED ABOUT 38
YEARS, R/O H. NO. 187/41 A/29K, TILAK NAGAR,
ALLAHPUR, ALLAHABAD (UTTAR PRADESH)**

.....PETITIONER

(BY SHRI AYUR JAIN- ADVOCATE)

AND

- 1. UNION OF INDIA THROUGH ITS
SECRETARY, MINISTRY OF EDUCATION,
NEW DELHI (DELHI)**

- 2. DIRECTOR, MAULANA AZAD NATIONAL
INSTITUTE OF TECHNOLOGY, BHOPAL
(MADHYA PRADESH)**

- 3. REGISTRAR MAULANA AZAD, NATIONAL
INSTITUTE OF TECHNOLOGY, BHOPAL
(MADHYA PRADESH)**

.....RESPONDENTS

***(BY SHRI YOGESH BHATNAGAR- ADVOCATE FOR RESPONDENT NOS. 2
AND 3)***

This petition coming on for admission this day, the court passed the following:

ORDER

This petition under Article 226 of Constitution of India has been filed seeking the following reliefs:-

“7.1 That, the impugned list by which the petitioner has been held ineligible finally shall be quashed and set-aside.

7.2 That the Hon’ble High Court shall order the petitioner eligible of the AGP Rs.6000/- and AGP Rs.8000/- for the post of Assistant Professor and respondents shall be further directed to allow the Petitioner to give the written exam/face interview for the purpose of selection on the post of Assistant Professor for AGP 6000 and AGP 8000 respectively.

7.3 Any other writ/writs, relief(s), direction(s), instruction(s) which this Hon’ble Court deem fit and proper looking to the above facts and circumstances of the case be also passed in favour of petitioners in the best interest of justice.”

2. It is the case of the petitioner that an advertisement was issued for appointment on the post of Assistant Professor at AGP Rs.6000/- and Assistant Professor at AGP Rs.8000/-. Looking to the notification issued by MANIT, the petitioner applied for AGP Rs.6000/- and AGP Rs.8000/- for the post of Assistant Professor in Electronics and Communication Engineering Department. A provisional list of ineligible candidates was issued by MANIT and as per the said list, the petitioner has been placed in the list of ineligible candidates. Notice was also issued by MANIT giving liberty to the candidates who were placed in the list of ineligible candidates and, therefore, the petitioner also preferred a representation in which he had specifically stated that he had

done B.Tech in Electrical and Electronic Engineering and M.Tech in Digital Communication from MANIT, Bhopal and Ph.D in Electronic and Communication Engineering. The respondents have now issued a final list of provisionally ineligible candidates and after taking a decision on the representation of the petitioner, the petitioner has been declared as ineligible.

3. It is submitted by counsel for petitioner that as per the advertisement issued by the respondents dated 04.07.2023, the minimum qualification for all Engineering Departments was B.Tech./B.E. or any other equivalent degree, M.Tech./ME/MS or any equivalent degree and Ph.D. in relevant discipline. It is submitted by counsel for the petitioner that the “relevant discipline” was confined to Ph.D. and since the petitioner has done Ph.D. for Electronics and Communication Engineering, therefore, he was eligible for consideration of his case but the respondents have declared him ineligible on the ground that he does not have the minimum qualification.

4. *Per contra*, the petition is vehemently opposed by counsel for respondents. It is submitted that the “relevant discipline” is applicable to all the three courses i.e. B.Tech. /B.E., M.Tech./ME/MS as well as Ph.D. It is not in dispute that the petitioner has done Ph.D. from Electronics and Communication Engineering as well as M.Tech. from the same discipline but the petitioner has passed B.Tech. from Electrical and Electronics. Therefore, the petitioner was not holding the minimum qualification and thus he has been rightly placed in the category of ineligible candidates. It is submitted that more than 150 candidates were declared eligible.

5. In reply, it is submitted by counsel for the petitioner that the petitioner is being discriminated because one Dr. Sukeshni Tirkey has

been appointed as Assistant Professor (Grade-II), whereas; she was not having minimum qualifications as suggested by the respondents.

6. Considered the submissions made by counsel for parties.

7. During the course of arguments, counsel for the petitioner was directed to point out the subjects which were taught in B.Tech., Electrical and Electronics and which are the subjects of Electronics and Communications. It is submitted by counsel for the petitioner that some of the subjects which are taught in B.Tech., Electronics and Communications were not taught to the petitioner in Electrical and Electronics Engineering.

8. Thus, even according to the petitioner, the petitioner was not having the minimum qualification for appointment against the post of Assistant Professor in Electronics and Communication Engineering. Although, the petitioner tried to convince this Court on the ground that in the event of a conflict between the statement and advertisement in service regulations, the later would prevail as there cannot be any estoppel against statute or regulations having statutory effect but could not point out any distinction between the advertisement and service regulations/statue.

9. So far as educational qualifications are concerned, it is the job of the Committee of experts and this Court in exercise of power under Article 226 of Constitution of India cannot assume the charge of the experts to hold as to whether the B.Tech. in Electrical and Electronics is equivalent to B.Tech. in Electronics and Communications.

10. It is well established principle of law that the Court should not substitute its judgment for that of academicians when the dispute relates to educational affairs. Unless and until some *malafides* are alleged, the recommendation of expert committee cannot be challenged. In the

matter of appointments in the academic field, the Court should show due regard to the opinion expressed by the experts constituting the Selection Committee and its recommendation. The Court should normally be very slow to pass orders in its jurisdiction because matters falling within the jurisdiction of educational authorities should normally be left to their decision and the Court should interfere with them only when it thinks it must do so in the interest of justice. The expert body consisted of persons coming from different walks of life who were engaged in or interested in the field of education and having wide experience and they were entrusted with the duty of maintaining higher standards of education and thus a decision of such an expert body should be given due weightage. Whether a candidate fulfils the requisite qualifications or not is a matter which should be entirely left to be decided by the academic bodies and the concerned selection committees which invariably consist of experts on the subjects relevant to the selection.

11. The aforesaid law has been laid down by the Supreme Court in the case of **The Chancellor and Another Vs. Dr. Bijayananda Kar and Others** reported in (1994) 1 SCC 169, **Chairman, J & K State Board of Education Vs. Feyaz Ahmed Malik and Others** reported in (2000) 3 SCC 59, **Dental Council of India Vs. Subharti K.K.B. Charitable Trust and Another** reported in (2001) 5 SCC 486, **Medical Council of India Vs. Sarang and others** reported in (2001) 8 SCC 427, **B.C. Mylarappa Alias Dr. Chikkamylarappa Vs. Dr. R. Venkatasubbaiah and Others** reported in (2008) 14 SCC 306, **Rajbir Singh Dalal (Dr.) Vs. Chaudhari Devi Lal University, Sirsa and Another** reported in (2008) 9 SCC 284, **All India Council for Technical Education Vs. Surinder Kumar Dhawan and Others** reported in (2009) 11 SCC 726, **Neelima Misra Vs. Harinder Kaur**

Paintal and Others reported in (1990) 2 SCC 746, **Bhushan Uttam Khare v. Dean, B.J. Medical College and others** reported in (1992) 2 SCC 220, **Dalpat Abasaheb Solunke and Others Vs. Dr. B.S. Mahajan and Others** reported in (1990) 1 SCC 305, **Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others** reported in (1984) 4 SCC 27, **Dr. J.P. Kulshrestha & Others Vs. Chancellor, Allahabad University & Others** reported in (1980) 3 SCC 418, **Basavaiah (Dr.) Vs. Dr. H.L. Ramesh and Others** reported in (2010) 8 SCC 372, and **Dalpat Abasaheb Solunke etc. etc. Vs. Dr. B.S. Mahajan etc. etc.** reported in AIR 1990 SC 434.

12. Furthermore, the submissions made by counsel for the petitioner that the “relevant discipline” as mentioned in the advertisement should be confined to Ph.D. is concerned, the same cannot be accepted. It is well established principle of law that any interpretation which leads to absurdity should be avoided. Since, advertisement was issued for appointment of Assistant Professor in Electronics and Communication Engineering, then the aspirant must be having all the three degrees in the same faculty. In case if it is interpreted that B.Tech. in any faculty or discipline will serve the purpose, then it would mean that anybody who had done B.Tech. or M.Tech. in any faculty of Engineering subject but after having done Ph.D. in Electronics and Communication Engineering he would become eligible, then it is clear that the same would lead to absurdity. An Assistant Professor will be preparing the next generation by teaching the graduation classes and if he himself has not passed the B.Tech. in the “relevant discipline”, then the basic purpose of laying down the qualifications would be frustrated. Therefore, the use of word “relevant discipline” has to be read in the context of B.Tech., M. Tech.

as well as Ph.D.

13. Admittedly, since the petitioner has not done B.Tech. from Electronic and Communication Engineering, therefore, no case is made out warranting interference.

14. Petition fails and is hereby **dismissed**.

(G.S. AHLUWALIA)
JUDGE

Ashish/shubhankar